

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>

**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	11-56986		
District Court/Agency Case Number(s):	2:10-cv-09034-JHN-JC		
District Court/Agency Location:	Central Court, Los Angeles		
Case Name:	Sarver	v.	Hurt Locker, et al
If District Court, docket entry number(s) of order(s) appealed from:	Doc 55, Doc 129		
Name of party/parties submitting this form:	Plaintiff Sgt. Jeffrey Sarver		

Please briefly describe the dispute that gave rise to this lawsuit.

After screenplay writer, Defendant Boal, followed Plaintiff Sgt. Sarver for several weeks in Iraq while an embedded reporter for Playboy magazine, Defendants misappropriated Plaintiff's personal life story and likeness to make the movie "The Hurt Locker" without obtaining Plaintiff's consent. Plaintiff resided in New Jersey at the time of the film's release, and shortly thereafter, filed several state law claims in a Complaint filed in New Jersey USDC, including claims for Commercial Misappropriation of Likeness, Invasion of Privacy, etc. Venue was later transferred to California for the convenience of the parties, after which Defendants filed California state law Anti-SLAPP Motions to Dismiss.

Briefly describe the result below and the main issues on appeal.

The California District Court granted Defendants' Anti-SLAPP motions, after determining that Defendants' use of Plaintiff's likeness / life story was a "Transformative Use" protected by the 1st Amendment.

Describe any proceedings remaining below or any related proceedings in other tribunals.

Defendants were recently awarded attorney fees in excess of \$180,000 on December 8, 2011.

Provide any other thoughts you would like to bring to the attention of the mediator.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at [ca09\\_mediation@ca9.uscourts.gov](mailto:ca09_mediation@ca9.uscourts.gov). Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

### **CERTIFICATION OF COUNSEL**

I certify that:

a current service list with telephone and fax numbers and email addresses is attached

☒ (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list

☐ may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

**Note:** Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically** in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.

1 MICHAEL R DEZSI  
2 Law Office of Michael R. Dezsi, PLLC  
3 615 Griswold Street, Suite 719  
4 Detroit, MI 48226  
5 (313) 879-1206  
6 (313) 563-5221 (fax)  
7 mdezsi@dezsilaw.com  
8 Attorney for Plaintiff

9 UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

10 SGT. JEFFREY S. SARVER,  
11 Plaintiff,

12 v

13 THE HURT LOCKER, LLC, MARK  
14 BOAL, KATHRYN BIGELOW, GREG  
15 SHAPIRO, NICOLAS CHARTIER,  
16 TONY MARK, DONALL McCUSKER,  
17 SUMMIT ENTERTAINMENT, LLC,  
18 VOLTAGE PICTURES, LLC,  
19 GROSVENOR PARK MEDIA, LP,  
20 FIRST LIGHT PRODUCTIONS, INC.,  
21 KINGSGATE FILMS, INC., and  
22 PLAYBOY ENTERPRISES, INC., Jointly  
23 and Severally,  
24 Defendants.

No.: 11-56986

D.C. No.: 2:10-cv-09034-JHN  
(JCx)

**REPRESENTATION  
STATEMENT**

25 The undersigned counsel represents Sgt. Jeffrey S. Sarver, Plaintiff and  
26 Appellant in this matter, and no other party. Attached is a service list that shows all  
27 of the parties to the action below, and identifies their counsel by name, firm, address,  
28 telephone number, and e-mail address, where appropriate. Circuit Rule 3-2(b).

1 Dated: December 16, 2011

2  
3  
4 LAW OFFICE OF MICHAEL R. DEZSI, PLLC

5  
6 By: /s/Michael R. Dezsi  
7 Attorney Plaintiff, Sgt. Sarver  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**REPRESENTATION STATEMENT**

**SERVICE LIST**

Todd J. Weglarz, PLLC  
Law Offices of Todd J. Weglarz, PLLC  
30903 Northwestern Highway  
Suite 250  
Farmington Hills, MI 48334

Attorneys for Plaintiff *SGT. SARVER*

Telephone: 248.539.9081  
Facsimile: 248.413.2647  
E-mail: [tweglarz@weglarzlaw.com](mailto:tweglarz@weglarzlaw.com)

Michael R. Dezsi  
615 Griswold Street, Suite 719  
Detroit, MI 48226

Attorney for Plaintiff *SGT. SARVER*

Telephone: 313.879.1206  
Facsimile: 313.963.5221  
E-mail: [mdezsi@dezsilaw.com](mailto:mdezsi@dezsilaw.com)

Erik L. Jackson  
Cozen O'Connor  
601 S. Figueroa Street, Suite 3700  
Los Angeles, CA 90017

Attorneys for Plaintiff *SGT. SARVER*

Telephone: 213.892.7961  
Facsimile: 866.484.0947  
E-mail: [ejackson@cozen.com](mailto:ejackson@cozen.com)

Linda George, Esq.  
577 Summit Avenue  
Hackensack, NJ 07601

Attorneys for Plaintiff *SGT. SARVER*

Telephone: 201.487.5225  
Facsimile:  
E-mail:

Geoffrey N. Fieger  
19390 W. Ten Mile Road  
Southfield, MI 48075

Attorneys for Plaintiff *SGT. SARVER*

Telephone: 248.355.5555  
Facsimile: 248.355.5148  
E-mail: [g.fieger@fiiegerlaw.com](mailto:g.fieger@fiiegerlaw.com)

Jon-Jamison Hill, Esq.  
Eisner Frank & Kahan  
9601 Wilshire Boulevard, Suite 700  
Beverly Hills, CA 90210

Attorneys for Defendants *NICOLAS  
CHARTIER, THE HURT LOCKER,  
GREG SHAPIRO, TONY MARK,  
DONALL McCUSKER, VOLTAGE  
PICTURES, LLC, GROSVENOR PARK  
MEDIA LP, FIRST LIGHT  
PRODUCTIONS INC. AND  
KINGSGATE FILMS INC.*

Telephone: 310.855.3200  
Facsimile: 310.855.3201  
E-mail: [jhill@eisnerlaw.com](mailto:jhill@eisnerlaw.com)

Jackie M Joseph, Esq.  
Eisner Frank & Kahan  
9601 Wilshire Boulevard, Suite 700  
Beverly Hills, CA 90210

Attorneys for Defendants *NICOLAS  
CHARTIER, THE HURT LOCKER,  
GREG SHAPIRO, TONY MARK,  
DONALL McCUSKER, VOLTAGE  
PICTURES, LLC, GROSVENOR PARK  
MEDIA, LP, FIRST LIGHT  
PRODUCTIONS INC., AND  
KINGSGATE FILMS INC.*

Telephone: 310.855.3200  
Facsimile: 310.855.3201  
E-mail: jjoseph@eisnerlaw.com

Timothy Joseph Gorry, Esq.  
Eisner, Frank & Kahan  
9601 Wilshire Boulevard, Suite 700  
Beverly Hills, CA 90210

Attorneys for Defendants *NICOLAS  
CHARTIER, THE HURT LOCKER,  
GREG SHAPIRO, TONY MARK,  
DONALL McCUSKER, VOLTAGE  
PICTURES, LLC., GROSVENOR PARK  
MEDIA, LP, FIRST LIGHT  
PRODUCTIONS INC. AND  
KINGSGATE FILMS INC.*

Telephone: 310.855.3200  
Facsimile: 310.855.3201  
E-mail: tgorry@eisnerlaw.com

David Halberstadter, Esq.  
Katten Muchin Zavis Rosenman  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067-3012

Attorneys for Defendant *SUMMIT  
ENTERTAINMENT, LLC*

Telephone: 310.788.4400  
Facsimile: 310.788.4471  
Email: david.halberstadter@kattenlaw.com

Sally Wu, Esq.  
Katten Muchin Rosenman  
2029 Century Park East Suite 2600  
Los Angeles, CA 90067  
310-788-4400

Attorneys for Defendant *SUMMIT  
ENTERTAINMENT, LLC*

Telephone: 310.788.4400  
Facsimile: 310.788.4471  
Email: sally.wu@kattenlaw.com

Scott A Resnik, Esq.  
Katten Muchin & Rosenman LLP  
575 Madison Avenue 14th Floor  
New York, NY 10022

Attorneys for Defendant *SUMMIT  
ENTERTAINMENT, LLC*

Telephone: 212.940.8543  
Facsimile:  
Email: scott.resnik@kattenlaw.com

Stephen M. Orlofsky, Esq.  
Blank Rome LLP  
301 Carnegie Center 3rd Floor  
Princeton, NJ 08540

Attorneys for Defendants *KATHRYN  
BIGELOW AND MARK BOAL*

Telephone: 609.750.2646  
Facsimile:  
Email:

Andrew James Hughes, Esq.  
Blank Rome LLP  
301 Carnegie Center 3rd Floor  
Princeton, NJ 08540

Attorneys for Defendants *KATHRYN  
BIGELOW AND MARK BOAL*

Telephone: 609.750.7706  
Facsimile:  
Email: hughes-a@blankrome.com

Dale F Kinsella, Esq.  
Kinssella Weitzman Iser Kump &  
Aldisert LLP  
808 Wilshire Boulevard, 3rd Floor  
Santa Monica, CA 90401

Attorneys for Defendants *KATHRYN  
BIGELOW AND MARK BOAL*

Telephone: 310.556.9800  
Facsimile: 310.566.9850  
Email: dkinsella@kwikalaw.com

Jeremiah Tracy Reynolds, Esq.  
Kinsella Weitzman Iser Kump and  
Aldisert  
808 Wilshire Boulevard, 3rd Floor  
Santa Monica, CA 90401

Attorneys for Defendants *KATHRYN  
BIGELOW AND MARK BOAL*

Telephone: 310.556.9800  
Facsimile: 310.566.9850  
Email: jreynolds@kwikalaw.com